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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|-----------------------|---------------------|------------------|
| 10/075,185 | 02/15/2002 | William Clinch | wc0202 | 7300 |
| 23580 | 7590 | 07/07/2003 | | |
| MESMER & DELEAULT, PLLC 41 BROOK STREET MANCHESTER, NH 03104 | | EXAMINER | | |
| | | PONOMARENKO, NICHOLAS | | |
| | | ART UNIT | | PAPER NUMBER |
| | | 2834 | | |

DATE MAILED: 07/07/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|---|----------------------------------|------------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 10/075,185 | CLINCH, WILLIAM |
| | Examiner Nicholas Ponomarenko | Art Unit 2834 |
| -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address -- | | |
| Period for Reply <p>A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.</p> <ul style="list-style-type: none"> - Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication. - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely. - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication. - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). - Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b). | | |
| Status <p>1)<input checked="" type="checkbox"/> Responsive to communication(s) filed on _____.</p> <p>2a)<input type="checkbox"/> This action is FINAL. 2b)<input checked="" type="checkbox"/> This action is non-final.</p> <p>3)<input type="checkbox"/> Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i>, 1935 C.D. 11, 453 O.G. 213.</p> | | |
| Disposition of Claims <p>4)<input checked="" type="checkbox"/> Claim(s) <u>1-20</u> is/are pending in the application.</p> <p>4a) Of the above claim(s) _____ is/are withdrawn from consideration.</p> <p>5)<input type="checkbox"/> Claim(s) _____ is/are allowed.</p> <p>6)<input checked="" type="checkbox"/> Claim(s) <u>1-20</u> is/are rejected.</p> <p>7)<input type="checkbox"/> Claim(s) _____ is/are objected to.</p> <p>8)<input type="checkbox"/> Claim(s) _____ are subject to restriction and/or election requirement.</p> | | |
| Application Papers <p>9)<input type="checkbox"/> The specification is objected to by the Examiner.</p> <p>10)<input type="checkbox"/> The drawing(s) filed on _____ is/are: a)<input type="checkbox"/> accepted or b)<input type="checkbox"/> objected to by the Examiner.</p> <p style="margin-left: 20px;">Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).</p> <p>11)<input type="checkbox"/> The proposed drawing correction filed on _____ is: a)<input type="checkbox"/> approved b)<input type="checkbox"/> disapproved by the Examiner.</p> <p style="margin-left: 20px;">If approved, corrected drawings are required in reply to this Office action.</p> <p>12)<input type="checkbox"/> The oath or declaration is objected to by the Examiner.</p> | | |
| Priority under 35 U.S.C. §§ 119 and 120 <p>13)<input type="checkbox"/> Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).</p> <p>a)<input type="checkbox"/> All b)<input type="checkbox"/> Some * c)<input type="checkbox"/> None of:</p> <p style="margin-left: 20px;">1.<input type="checkbox"/> Certified copies of the priority documents have been received.</p> <p style="margin-left: 20px;">2.<input type="checkbox"/> Certified copies of the priority documents have been received in Application No. _____.</p> <p style="margin-left: 20px;">3.<input type="checkbox"/> Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).</p> <p>* See the attached detailed Office action for a list of the certified copies not received.</p> <p>14)<input type="checkbox"/> Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).</p> <p>a) <input type="checkbox"/> The translation of the foreign language provisional application has been received.</p> <p>15)<input type="checkbox"/> Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.</p> | | |
| Attachment(s) <p>1) <input type="checkbox"/> Notice of References Cited (PTO-892)</p> <p>2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</p> <p>3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>1</u>.</p> <p>4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____.</p> <p>5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)</p> <p>6) <input type="checkbox"/> Other: _____.</p> | | |

DETAILED ACTION

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

1. **Claims 1-20** are rejected under 35 U.S.C. 101 because the disclosed invention is inoperative and therefore lacks utility. The disclosed invention is inoperative because it contradicts the doctrine or principle of conservation of energy.

Doctrine or principle of the conservation of energy.

If the boundary considered includes the universe, the principle of the conservation of energy amounts to a statement that the sum total of the energy of the universe is a fixed unalterable quantity.

The principle of the conservation of energy also denies the possibility of "perpetual motion." By "perpetual motion" is meant the devising of some arrangement so that energy in one form can be produced without energy in some other form being used up by the machine. Thus if an engine could be made to do work on external bodies for an indefinite time, and thus give out energy, without being supplied with energy from without, or diminishing the stock of energy in all its various forms which it originally possessed, we should have a means of creating energy, and this is in direct contradiction to the principle of the conservation of energy.

2. When a patent applicant presents an application describing an invention that contradicts known scientific principles, or relies on previously undiscovered scientific

phenomenon, the burden is on the examiner simply to point out this fact to the appellant... The burden shifts to appellant to demonstrate either that his invention, as claimed, is operable or does not violate basic scientific principles, or that those basic scientific principles are incorrect. *As stated by the Patent Office Board of Appeals, Newman v. Quigg 681 F.Supp 16, at 18, 5 U.S.P.Q. 2d 1880(1988).*

Applicants are required to furnish a working model of their invention in order to demonstrate its operability. See MPEP § 608.03.

Conclusion

3. When the claims are amended, applicant(s) should state in detail where in the original disclosure or in the drawings the amended features find support.
No new matter may be introduced.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Nicholas Ponomarenko** whose telephone number is **(703) 308-1776.**

5. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist, Mon-Fri, 8 am-530 pm
Phone: (703) 308-0956
Fax: (703) 305-3431

np

June 30, 2003



Nicholas Ponomarenko
Primary Examiner
Technology Center 2800